

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RONALD N. JOHNSON,	§
	§
Defendant Below-	§ No. 39, 2009
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ Cr. ID 9812007273A
Plaintiff Below-	§
Appellee.	§

Submitted: August 14, 2009

Decided: October 13, 2009

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices.

ORDER

This 13th day of October 2009, upon consideration of the parties' briefs and the record on appeal, it appears to the Court that:

(1) The defendant-appellant, Ronald Johnson, filed this appeal from the Superior Court's dismissal of his motion for postconviction relief for failure to prosecute. We find no abuse of the Superior Court's discretion in this case. Accordingly, we affirm the judgment below.

(2) The record reflects that a Superior Court jury found Johnson guilty in July 1999 of one count of menacing and one count of possession of a deadly weapon by a person prohibited. The Superior Court sentenced Johnson as a habitual offender to eighteen years at Level V incarceration to

be followed by decreasing levels of supervision. This Court affirmed Johnson's conviction and sentence on direct appeal.¹ Thereafter, Johnson filed a timely motion for postconviction relief in June 2005. In July 2005, counsel entered an appearance on Johnson's behalf and filed a motion to amend the postconviction motion, which was granted. Following the preparation of additional transcripts, counsel filed the amended motion for postconviction relief on May 2, 2006. On the same day, Johnson filed a *pro se* document attempting to "supplement" his counsel's motion.

(3) In March 2007, after the State and Johnson's trial counsel filed their respective responses to the postconviction claims, Johnson filed a motion to discharge his postconviction counsel and requested to proceed *pro se*. The Superior Court granted Johnson's motion and gave him an extension of time to file a supplemental reply brief. Thereafter, the matter was assigned to a Superior Court Commissioner for consideration. Johnson continued to file voluminous *pro se* pleadings. Because the Commissioner could not decipher which claims Johnson was continuing to pursue on his own behalf, she directed Johnson to consolidate in one document a list of the specific claims he wanted the Court to consider. Johnson initially was given one month to comply and was granted several extensions of time thereafter.

¹ *Johnson v. State*, 2002 WL 714520 (Del. Apr. 22, 2002).

Despite being given multiple opportunities to clarify his claims, Johnson instead wrote to the Court indicating that he was having difficulty responding. He asked the Commissioner to consider the matter on the papers already submitted.

(4) In response, the State moved to dismiss Johnson's motion for failure to respond to the Court's directive. The Commissioner granted Johnson an extension of time to respond to the motion to dismiss. No response was filed. Accordingly, the Commissioner filed a report on July 1, 2008 recommending that the Johnson's motion for postconviction relief, which had been filed in 2005, be dismissed for Johnson's failure to prosecute. The Superior Court adopted the Commissioner's report and recommendation and dismissed Johnson's motion. This appeal followed.

(5) After careful consideration of the parties' respective positions on appeal, we find it manifest that the judgment of the Superior Court should be affirmed on the basis of the Superior Court's well-reasoned decision dated December 29, 2008. The Superior Court did not abuse its discretion in dismissing Johnson's motion for postconviction relief, which had been filed three years earlier, for his failure to follow the Court's directives and for failure to prosecute. The Superior Court has the inherent power to maintain

control of its docket to achieve the orderly disposition of its business.²

Despite many opportunities to do so, Johnson failed to prosecute his postconviction motion in a diligent manner.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland
Justice

² See *State v. Harris*, 616 A.2d 288, 291 (Del. 1992).